IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 88 OF 2005

Nurruddin Mohammedmia Mirsinge ....Petitioner

Versus

Mohamod Shahid Yusuf Mirsinge and Ors. ...

Respondents

Mr. Kiran N. Joshi for the petitioner.
Mrs. G.P. Mulekar, A.P.P. for the State.

CORAM: **A.M. KHANWILKAR, J.**
DATE: **DECEMBER 13, 2005**.

P.C.

Heard counsel for the parties. I see no infirmity in the approach adopted by the Court below in rejecting the complaint preferred by the Petitioner. On the basis of private complaint preferred by the Petitioner, Police was called upon to submit report which in turn was filed by the Police before the concerned Magistrate after due enquiry. The report clearly mentions that the private complaint has been filed by the Petitioner out of desperation. The report also mentions that in fact the brother of the Petitioner was suffering from blood pressure and kidney ailment and succumbed to that ailment. On this basis report has been filed by the local Police before the Magistrate that it is not the case of any offence committed by the proposed accused. After this report, the Magistrate called upon the Petitioner to produce evidence if he so desired. No attempt was made by

the Petitioner to produce relevant evidence to indicate complicity of any of the proposed accused. In this background, the Magistrate has dismissed the complaint on considering the allegations in the complaint and the verification of the complainant which was not substantiated by any independent evidence. Hence, no interference is warranted. Petition is dismissed.

(A.M. KHANWILKAR, J.)